

Secretary of State
Service of Process
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Austin, Texas 78711-2079



5:20-CV-1020

7190 1046 4701 0120 8894

Return Receipt (Electronic)

2020319639-1

U.S. International Development Finance Corporation
Attn: Caleb McCarry, Ceo
1100 New York Ave. NW
Washington, DC 20527

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The State of Texas



Service of Process
P.O. Box 12079
Austin, Texas 78711-2079

Phone: 512-463-5560
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Dial 7-1-1 For Relay Services
www.sos.texas.gov

Ruth R. Hughs
Secretary of State

August 13, 2020

U.S. International Development Finance Corporation
Attn: Caleb McCarry, Ceo
1100 New York Ave. NW
Washington, DC 20527

2020-319639-1

**Include reference number
in all correspondence**

RE: Randall L. Byrd vs Global Recovery Group, LLC, et al
218th Judicial District Court Of Wilson County, Texas
Cause No. CVW2000508

Dear Sir/Madam,

Pursuant to the Laws of Texas, we forward herewith by CERTIFIED MAIL, return receipt requested, a copy of the process received by the Secretary of State of the State of Texas on August 6, 2020.

CERTIFIED MAIL #71901046470101208894

Refer correspondence to:

Mark C. Taylor
Waller Lansden Dortch & Davis, LLP
100 Congress Avenue, Suite 1800
Austin, TX 78701

Sincerely,

Service of Process
Government Filings
512-463-1662
GF/mo
Enclosure

CVW2000508

THE STATE OF TEXAS
218TH DISTRICT COURT
COUNTY OF WILSON

CIVIL CITATION

To: U.S. INTERNATIONAL DEVELOPMENT FINANCE CORPORATION
C/O TEXAS SECRETARY OF STATE
ATTN: CALEB MCCARRY, CEO
1100 NEW YORK AVE. NW
WASHINGTON DC 20527

SERVICE COPY

8-6-2020

NOTICE TO DEFENDANT: You have been sued. You may employ an attorney. If you or your attorney do not file a written answer with the clerk who issued this citation by 10:00 a.m. on the Monday next following the expiration of twenty (20) days after you were served with this citation and petition, a default judgment may be taken against you.

You are here by commanded to appear by filing a written answer to the **PLAINTIFF'S ORIGINAL PETITION** at or before 10 o'clock a.m. of the Monday next after the expiration of twenty days after the date of service of this citation before the Honorable Judge of the 218TH DISTRICT COURT of Wilson County, Texas at the Wilson County District Court Justice Center at 1105 Railroad Street, Floresville, Texas 78114.

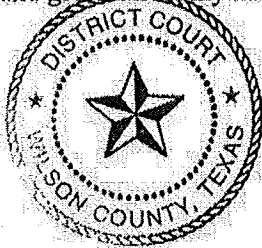
Said Petition was filed in said Court on 3rd of August, 2020 in this cause, numbered CVW2000508 on the docket of said Court and styled:

RANDALL L. BYRD VS. GLOBAL RECOVERY GROUP, LLC AND U.S. INTERNATIONAL DEVELOPMENT FINANCE CORPORATION

ATTORNEY FOR PLAINTIFF: MARK TAYLOR
100 CONGRESS AVE., 18TH FLOOR
AUSTIN, TX 78701

The nature of this demand is fully shown by a true and correct copy of the **PLAINTIFF'S ORIGINAL PETITION**, accompanying this citation and made a part hereof. The Officer executing this citation shall promptly serve the same according to requirements of law, and mandates thereof, and make due return as the law directs.

Issued and given under my hand and seal of said Court at Floresville, Wilson County, Texas, this the 4th day of August, 2020.



Deborah Bryan, District Clerk
1105 Railroad Street
Floresville, Texas 78114

By: Kauandra Tuleado Deputy

OFFICER'S OR AUTHORIZED PERSON'S RETURN

Came to hand this ___ day of ___, 20___, and executed at ___ within the County of ___ at ___ o'clock ___ m. on the ___ day of ___, by delivering to the within named ___, in person, a true copy of this citation together with the accompanying copy of the petition, and endorsed on said copy of citation the date of delivery.

Sheriff/Constable of ___ County, Texas
By: ___ Deputy

or authorized person: _____

Subscribed and sworn to before me, the undersigned authority, this ___ day of _____,

319639

Notary Public
Commission Expires: _____

RECEIVED
2020-08-06 PM 1:00
CLERK OF DISTRICT COURT
WILSON COUNTY, TEXAS

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Deborah Bryan
Wilson County
District Clerk

CVW2000508

CAUSE NO. _____

RANDALL L. BYRD,
Plaintiff,

V.

GLOBAL RECOVERY GROUP, LLC, and
U.S. INTERNATIONAL DEVELOPMENT
FINANCE CORPORATION,
Defendants.

§ **IN THE DISTRICT COURT**
§
§
§
§ **WILSON COUNTY, TEXAS**
§
§
§ Wilson County - 218th District Court
§
§ **_____ JUDICIAL DISTRICT**

PLAINTIFF'S ORIGINAL PETITION

Plaintiff Randall L. Byrd files this Original Petition against Defendants Global Recovery Group, LLC and U.S. International Development Finance Corporation (collectively "Defendants"), as follows:

PARTIES

1. Plaintiff Randall L. Byrd is an individual citizen of the State of Texas and a resident of Wilson County, Texas, and was at the time of the events made the subject of this action.

2. Global Recovery Group, LLC ("Global Recovery") is a limited liability company which may be served with process by serving Incorp Services, Inc., 815 Brazos St., Suite 500, Austin, Texas 78701.

3. U.S. International Development Finance Corporation ("DFC") is the surviving entity and successor-in-interest to the Overseas Private Investment Corporation ("OPIC"). DFC does not maintain an agent for service in Texas, but regularly conducts business through the United States, including Texas, as did OPIC. Additionally, the fraud complained of herein occurred in Texas. Accordingly, DFC is subject to process and jurisdiction in Texas, and may be served pursuant to Section 17.041 *et seq* of the Texas Civil Practice & Remedies Code, by serving the

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Texas Secretary of State, who will forward process to the DFC at its home office address, 1100 New York Ave. NW, Washington, DC 20527, Attn: Caleb McCarry, CEO.

JURISDICTION

4. This Court has jurisdiction over this matter because the amount in controversy is within the jurisdictional limits of this Court. Plaintiff seeks monetary relief in excess of \$50,000.00 but less than \$15,000,000.00.

5. Venue is proper in this Court pursuant to the Texas Civil Practice & Remedies Code §15.002(1) and (4).

DISCOVERY

6. Discovery will be conducted under Level 3.

FACTUAL BACKGROUND

7. Mr. Byrd was a debtor in a Chapter 11 bankruptcy proceeding, Case No. 11-10781, in the United States Bankruptcy Court for the Western District of Texas. Mr. Byrd received his discharge by Order dated August 15, 2016.

8. During Mr. Byrd's bankruptcy case, OPIC appeared through Global Recovery in connection with a loan of \$10 million made by OPIC to Prefabricados y Modulares de Monterrey, S. de R.I. de C.V. ("PyMM"), in connection with a plant and operations in Mexico. Prior to his bankruptcy case, Mr. Byrd was found liable to OPIC under a "Project Completion Agreement" in connection with a lawsuit filed in state court in New York. OPIC, through Global Recovery, participated actively in Mr. Byrd's bankruptcy case, and, at all times represented that OPIC was solely a creditor of Mr. Byrd. Additionally, Global Recovery asserted that it was the agent of OPIC, and, upon information and belief, Global Recovery was OPIC's agent and was vested with actual authority to act on behalf of OPIC.

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9. Mr. Byrd, through counsel, informed Global Recovery that the records in Mexico indicated that OPIC was asserting ownership of the shares of PyMM. However, OPIC, through Global Recovery, represented in writing in November 2016 that it was not a shareholder of PyMM. However, according to the records in Mexico, OPIC is still asserting an ownership interest in the PyMM stock. Specifically, pursuant to PyMM's corporate meeting minutes dated October 4, 2010 and recorded in Mexico, OPIC, through its representatives Francisco Javier Villareal and Hector Carpizo Trevino, owned 99.88% of PyMM; no revocation has ever been filed.

10. Mr. Byrd entered into a Settlement Agreement (the "Settlement") with other shareholders of PyMM (including Randall Coleman among others), which was approved by the bankruptcy court, in which Mr. Byrd received, among other things, shares of stock in PyMM. OPIC's assertion that it is an owner of the shares is contrary to its representations made to Mr. Byrd. Accordingly, Mr. Byrd has been unable to obtain the stock ownership of PyMM in Mexico.

11. Additionally, in connection with the Settlement November 2015, OPIC obtained an assignment of a purported debt and lien from Randall Coleman; the lien was against the property owned by PyMM. This followed an August 2015 appointment by Randall Coleman of Beatriz Perez of Global Recovery to act as his representative in Mexico with respect to the debt and lien asserted by Randall Coleman. In fact, in May 2016, OPIC sued PyMM on the transferred debt in a suit filed in Mexico and served on Roberto Carlos Canto Madrigal – the shareholder representative appointed in 2009. All of this is directly contrary to written representations by Donald "Skip" Bean of Global Recovery when Mr. Byrd was attempting to settle with the Colemans, and upon which he relied in agreeing to the settlement.

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12. All conditions precedent to recovery on the claims and causes of action asserted herein have occurred.

CAUSES OF ACTION

Fraud

13. Mr. Byrd incorporates by reference all matters set forth above.

14. OPIC and Global Recovery fraudulently represented to Mr. Byrd that (1) a lien against the PyMM property would be released; and (2) that OPIC was not a shareholder of PyMM, and that the sole shareholders at PyMM were the Colemans and Sparkle Car Wash. OPIC and Global Recovery actively concealed this information from Mr. Byrd and continue to conceal it. Mr. Byrd relied upon these representations to his detriment, and has suffered damages as a result thereof. Mr. Byrd seeks recovery of damages in an amount in excess of the minimum jurisdictional limits of this Court.

15. DFC, as OPIC's successor, is liable for the damages sought herein.

Conspiracy

16. Mr. Byrd incorporates by reference all matters set forth above.

17. Global Recovery and OPIC conspired to defraud Mr. Byrd, as set forth above. Global Recovery and OPIC, upon information and belief, had a meeting of the minds and actively agreed to pursue the course set forth above, to Mr. Byrd's detriment. Mr. Byrd has been damaged as a result of these actions, and seeks recovery of damages in excess of the minimum jurisdictional limits of this Court.

18. DFC, as OPIC's successor, is liable for the damages sought herein.

Tortious Interference

19. Mr. Byrd incorporates by reference all matters set forth above.

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20. DFC and Global Recovery, by refusing to release the lien against the PyMM property and by not rescinding the share ownership, are knowingly interfering with the Settlement Agreement, and such interference is willful and intentional. This interference has been the proximate cause of actual damages to Mr. Byrd, for which he sues.

Punitive Damages

21. Mr. Byrd incorporates by reference all matters set forth above.

22. Defendants' conduct, which constitutes fraud and/or was committed with malice, entitles Mr. Byrd to recovery of exemplary damages pursuant to §41.001 *et. seq.* of the Texas Civil Practice & Remedies Code, for which Mr. Byrd hereby sues.

23. DFC, as OPIC's successor, is liable for the damages sought herein.

WHEREFORE, based on the foregoing, Plaintiff requests that upon final hearing he recover actual and punitive damages, that he recover his costs of Court, pre and post-judgment interest, and such other and further relief to which he may show himself to be justly entitled.

Respectfully submitted,

WALLER LANSDEN DORTCH & DAVIS LLP

By: /s/ Mark C. Taylor

Mark C. Taylor

State Bar No. 19713225

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Austin, Texas 78701

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ATTORNEYS FOR PLAINTIFF